



for such modification. Defendants' own motion reflects that they are aware that they must demonstrate that they cannot meet the deadlines in the Scheduling Order despite due diligence. *S&W Enters., LLC v. Southtrust Bank of Ala.*, 315 F.3<sup>rd</sup> 533, 535 (5<sup>th</sup> Cir. 2003). The Defendants have presented no evidence to the Court demonstrating that the parties cannot meet the deadlines other than simply pointing out how close the deadlines are. Plaintiff Joe Timpa asserts that the parties can meet such deadlines through proper diligence. Discovery will be complete by the discovery deadline and the pretrial disclosure deadline remains approximately a month away. Defendants have provided no evidence that there is specific discovery that they will not be able to obtain or additional experts that they need to designate. As a result, Plaintiff Joe Timpa opposes any continuation of the current trial setting.

FOR THE REASONS STATED, Plaintiff/Intervenor requests that the Defendants' Emergency Motion to Amend Scheduling Order and Continue Trial be denied and for such further relief as justice may require.

Respectfully submitted,

s/Susan E. Hutchison  
Susan E. Hutchison  
Texas Bar No. 10354100  
[Sehservice@FightsforRight.com](mailto:Sehservice@FightsforRight.com)

HUTCHISON & FOREMAN, PLLC  
500 East 4<sup>th</sup> St., Ste. 100  
Fort Worth, TX 76102  
(817) 336-5533  
817.887-5471 fax

ATTORNEYS FOR INTERVENOR

**CERTIFICATE OF SERVICE**

I certify that on the January 30, 2023, a true and correct copy of the foregoing Response was served on all counsel of record via the court's electronic email service.

Geoff J. Henley  
R. Lane Addison  
Henley & Henley, P.C.  
2520 Fairmount St., Ste. 200  
Dallas, TX 75201  
Attorneys for Plaintiffs

Christopher J. Caso  
Lindsay Gowin  
Tatia R. Wilson  
7DN Dallas City Hall  
1500 Marilla St.  
Dallas, TX 75201  
Attorneys for Defendants

s/Susan E. Hutchison  
Susan E. Hutchison